

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SOUTH CENTRAL BELL TELEPHONE COMPANY'S	)	CASE NO.
EXPERIMENTAL INCENTIVE REGULATION PLAN	)	89-076

O R D E R

This matter arising upon petition of South Central Bell Telephone Company ("South Central Bell") filed December 20, 1989 pursuant to 807 KAR 5:001, Section 7, for confidential protection of material attached to South Central Bell's proposed agenda for the third quarterly meeting on the grounds that disclosure of the information is likely to result in competitive injury, and it appearing to this Commission as follows:

South Central Bell seeks to protect as confidential material proposed for the agenda for the third quarterly meeting pertaining specifically to the Kentucky budget (point-of-test results), the Integrated Market Plan, reports on departmental activities related to the implementation of its Corporate Plan, and any information provided on ONA. South Central Bell states that with this information South Central Bell competitors could determine revenues and expenses associated with its operation in Kentucky. Additionally, the assumptions and analysis used in this data are unique to South Central Bell.

807 KAR 5:001, Section 7, protects as confidential information placed in the public record when it is established

that disclosure of the information is likely to cause substantial competitive harm to the party from whom the information was obtained. In order to satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

The information pertaining to the Kentucky budget (point-of-test results) which South Central Bell seeks to protect as confidential is information that will be disclosed during the course of any discussion on the Kentucky budget and the budget's relationship to point-of-test results. As such, the information does not constitute a "public record" as defined by KRS 61.870 and does not fall within the provisions of KRS 61.878 of the Kentucky Open Records Act from which 807 KAR 5:001, Section 7, derives its authority. However, the Kentucky budget and the actual results underlying the points-of-test have previously been granted confidential protection by this Commission, and as previously ordered herein on August 24, 1989, discussion of any information derived from confidential material is likewise entitled to protection and need not be disclosed during the public portion of the meeting.

The information relating to the Integrated Market Plan and the information relating to ONA, which South Central Bell seeks to protect as confidential, are not complete and were not submitted with the petition. Therefore, the Commission cannot evaluate the information to determine whether it is entitled to confidential

protection and the motion with respect to that information should be held in abeyance until the information can be evaluated. To avoid competitive injury from public disclosure of the information, any discussion of the Integrated Market Plan or ONA should be conducted during the confidential session of the quarterly meeting.

South Central Bell did attach to the agenda reports on departmental activities relating to implementation of the Corporate Plan. These reports contain specific internal activities to control expenses and to increase revenues. With knowledge of these activities, competitors of South Central Bell could attempt to undermine them thus increasing South Central Bell's costs or reducing its revenues to South Central Bell's competitive disadvantage. Therefore, this information should be protected from public disclosure, and the petition for such protection should be granted.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

1. The reports on departmental activities relating to implementation of the Corporate Plan, which South Central Bell has petitioned be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

2. South Central Bell shall not be required to disclose information pertaining to the Kentucky budget (point-of-test results), the Integrated Market Plan, and ONA during the public session of the quarterly meeting.

3. The Integrated Market Plan and the information on ONA shall be filed with the Commission upon completion, and the petition to protect the material from public disclosure shall be held in abeyance until it can be evaluated.

Done at Frankfort, Kentucky, this 5th day of January, 1990.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

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Commissioner

ATTEST:

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Executive Director